

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

KJALASAN MILAN,  
Plaintiff(s),  
v.  
FBI,  
Defendant(s).

Case No.: 2:20-cv-00045-GMN-NJK

## **REPORT AND RECOMMENDATION**

District courts screen complaints brought by plaintiffs seeking to proceed *in forma pauperis*. 28 U.S.C. § 1915(e).<sup>1</sup> A complaint should be dismissed for failure to state a claim upon which relief may be granted “if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992). A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Moreover, “a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). When a court dismisses a complaint, the plaintiff should be given leave to amend with directions as to curing its

<sup>1</sup> Separate from this screening process, district courts also have the authority to dismiss cases *sua sponte* without notice to the plaintiff when he “cannot possibly win relief.” *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 638 (9th Cir. 1988).

1 deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be  
 2 cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

3 On January 22, 2015, Plaintiff filed a lawsuit against the United States alleging that he was  
 4 subject to a “rude and miserable abuse of privacy” executed by the United States government. *See*  
 5 *Kjalasan v. United States*, et al., Case No. 2:15-cv-00130-GMN-PAL, Docket No. 1-2 at 1 (D.  
 6 Nev. Jan. 22, 2015). On January 27, 2015, United States Magistrate Judge Peggy A. Leen issued  
 7 a report and recommendation that the complaint be dismissed without leave to amend as frivolous.  
 8 *Id.*, Docket No. 2 at 2-3. On March 16, 2015, United States District Judge Gloria M. Navarro  
 9 adopted that recommendation and dismissed the case with prejudice. *Id.*, Docket No. 3 at 2.

10 On June 1, 2018, Plaintiff filed a lawsuit against the Department of Homeland Security  
 11 alleging that, as with his first lawsuit, the Government was engaged in an improper investigation  
 12 of Plaintiff and that reopening the previously-dismissed claim was necessary to expose alleged  
 13 governmental misconduct. *See Kjalasan v. United States*, et al., Case No. 2:18-cv-00994-APG-  
 14 VCF, Docket No. 1-1 at 2, 4. On June 15, 2018, United States Magistrate Judge Cam Ferenbach  
 15 issued a report and recommendation that the complaint failed as a matter of law as insufficiently  
 16 pled, for lack of standing, and as barred by *res judicata* principles. *Id.*, Docket No. 4 at 2-5. On  
 17 July 9, 2018, United States District Judge Andrew P. Gordon adopted that recommendation and  
 18 dismissed the case with prejudice. *Id.*, Docket No. 6 at 1.

19 On January 9, 2020, Plaintiff filed the instant lawsuit against the Federal Bureau of  
 20 Investigation alleging that, as with his prior two lawsuits, the Government is engaged in an  
 21 improper investigation of Plaintiff and further indicating that Plaintiff wants to expose alleged  
 22 governmental misconduct. Docket No. 1-1 at 1-2.<sup>2</sup> The alleged governmental misconduct has  
 23 purportedly targeted numerous individuals ranging from American politicians to Prince Harry to  
 24 journalist Megyn Kelly and, further, has allegedly resulted in the deaths of various musicians such  
 25 as Michael Jackson and Delores O’Riordan of *The Cranberries*. *Id.* at 2. The complaint does not  
 26 identify any actual cause of action.

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 28 <sup>2</sup> The Court construes Plaintiff’s filings liberally. *Blaisdell v. Frappiea*, 729 F.3d 1237,  
 1241 (9th Cir. 2013).

1 For the reasons similarly identified in Plaintiff's earlier suits, this case should be dismissed  
 2 with prejudice. The complaint is legally and factually frivolous as to its substance. The complaint  
 3 is also frivolous on claim preclusion grounds given that near identical allegations have already  
 4 been dismissed with prejudice twice.<sup>3</sup> In light of the frivolous nature of Plaintiff's claims, the  
 5 undersigned **RECOMMENDS** that Plaintiff's complaint be **DISMISSED** with prejudice.

6 The undersigned is now the fifth judge in this courthouse to address these frivolous  
 7 allegations. **THE COURT CAUTIONS PLAINTIFF THAT HE MUST CEASE**  
**REPETITIVE FILINGS OF FRIVOLOUS CLAIMS. FAILURE TO COMPLY MAY**  
**RESULT IN A FINDING THAT PLAINTIFF IS A VEXATIOUS LITIGANT.**

10 Dated: January 9, 2020

11   
 12 Nancy J. Koppe  
 United States Magistrate Judge

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14 **NOTICE**

15 This report and recommendation is submitted to the United States District Judge assigned  
 16 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and  
 17 recommendation must file a written objection supported by points and authorities within fourteen  
 18 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file  
 19 a timely objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951  
 20 F.2d 1153, 1157 (9th Cir. 1991).

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28 <sup>3</sup> The complaint also fails to state a claim or otherwise comply with the dictates of Rule 8  
 of the Federal Rules of Civil Procedure.